

FEDERAL COMMUNICATIONS COMMISSION
Enforcement Bureau
Market Disputes Resolution Division
445 12th St., S.W.
Washington, D.C. 20554

June 21, 2018

Copies sent by E-mail

NOTICE OF FORMAL COMPLAINT

THIS LETTER CONTAINS IMPORTANT INFORMATION REGARDING FILING DEADLINES AND PROCEDURES. PLEASE REVIEW IT CAREFULLY.

Paperkidd Productions & Publishing,)	
Jarrell D. Curne)	
Complainants,)	
)	Proceeding Number 18-140
v.)	Bureau ID Number EB-18-MD-003
)	
Verizon Wireless,)	
Defendant.)	

Jarrell D. Curne, Paperkidd Productions
& Publishing
14919 Pine View Drive
Grandview, Missouri 64030
DbFresh@Paperkidd.com
Complainants

David Haga
Assistant General Counsel, Verizon
1320 N. Courthouse Road
Arlington, Virginia 22201
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Counsel for Defendant

Re: Notice of Complaint -- *Jarrell D. Curne and Paperkidd Productions & Publishing v. Verizon Wireless*, File No. EB-18-MD-003, Proceeding Number 18-140

Dear Counsel:

On June 15, 2018, Jarrell D. Curne and Paperkidd Productions & Publishing (Curne) filed with this Commission an amended formal complaint against Verizon Wireless under section 208 of

the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 208.¹ A copy of the Complaint is being sent to Verizon Wireless by email with this letter. *See* 47 C.F.R. § 1.735(d). Verizon Wireless already should have a copy of the Complaint as served by Curne. *See* 47 C.F.R. § 1.735(c). If that is not the case, Verizon Wireless immediately should contact the Commission counsel identified below.

The Commission has promulgated comprehensive rules regarding formal complaints. *See* 47 C.F.R. §§ 1.720-1.736. *See also Implementation of the Telecommunications Act of 1996, Amendment of Rules Governing Procedures to Be Followed when Formal Complaints Are Filed Against Common Carriers*, Report and Order, 12 FCC Rcd 22497 (1997) (*Formal Complaints Order*), Order on Reconsideration, 16 FCC Rcd 5681 (2001) (*Formal Complaints Recon Order*). *See also Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure Relating to the Filing of Formal Complaints Under Section 208 of the Communications Act and Pole Attachment Complaints Under Section 224 of the Communications Act*, Order, 29 FCC Rcd 14078 (2014) (*Formal Complaints Amendment Order*). We strongly encourage the parties to read the formal complaint rules, the *Formal Complaints Order*, the *Formal Complaints Recon Order*, and the *Formal Complaints Amendment Order* fully and carefully.

Pursuant to sections 4(i), 4(j), and 208 of the Act, 47 U.S.C. §§ 154(i), 154(j), 208, sections 1.3, 1.724, 1.726, 1.729, and 1.733 of the Commission's rules, 47 C.F.R. §§ 1.3, 1.724, 1.726, 1.729, 1.733, and the authority delegated by sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, we modify and extend certain of the filing deadlines and other requirements set forth in the formal complaint rules, as specified below:

We waive the portions of sections 1.726(a) and 1.729(a) of the Commission's rules that limit the complainant to addressing, in its reply and supplemental interrogatories, only the "specific factual allegations and legal arguments made by the defendant *in support of its affirmative defenses*." 47 C.F.R. §§ 1.726(a), 1.729(a) (emphasis added). Instead, Curne must file a reply, and the reply must address any factual allegation or legal argument in the answer, regardless of whether it purports to support an affirmative defense. The supplemental interrogatories (if any) may address any factual allegation or legal argument in the answer, regardless of whether it purports to support an affirmative defense. This waiver will expedite our consideration of this matter by accelerating the creation of a full record.

Moreover, we waive the portions of sections 1.724(c) and 1.726(c) of the Commission's rules that require an answer and reply to contain proposed findings of fact and conclusions of law. Experience has shown that proposed findings of fact and conclusions of law included in these pleadings are of limited value. The answer and reply still must include comprehensive factual support and a thorough legal analysis, as required in sections 1.724(b)-(c) and 1.726(a), (c) of the Commission's rules.

In accordance with the formal complaint rules, as modified above:

¹ Amended Formal Complaint of Paperkidd Productions & Publishing and Jarrell D. Curne, File No. EB-18-MD-003, Proceeding Number 18-140 (filed June 15, 2018) (Complaint); Formal Complaint of Paperkidd Productions & Publishing and Jarrell D. Curne, File No. EB-18-MD-003, Proceeding Number 18-140 (filed Apr. 30, 2018).

1) On or before **July 18, 2018**, Verizon Wireless shall file and serve its request for interrogatories, if any, and shall file and serve any opposition and objections to Curne's request for interrogatories. 47 C.F.R. § 1.729.

2) Verizon Wireless shall, on or before **July 18, 2018**, file and serve an answer to the complaint that complies with this Notice of Formal Complaint and 47 C.F.R. § 1.724. Responses to any motions filed with the complaint shall be submitted with the answer.²

3) Curne shall, on or before **August 1, 2018**, file and serve a reply to the answer that complies with 47 C.F.R. § 1.726.

4) Curne shall, on or before **August 1, 2018**, file and serve its second request for interrogatories, if any, and file and serve any opposition and objections to Verizon Wireless's request for interrogatories, if any. 47 C.F.R. § 1.729.

5) Verizon Wireless shall, on or before **August 8, 2018**, file any opposition and objections to Curne's second request for interrogatories, if any. 47 C.F.R. § 1.729.

6) The parties shall file a public version of all written submissions in this proceeding using the Commission's Electronic Comment Filing System (ECFS). All written submissions shall (a) prominently contain the Proceeding Number and Bureau ID Number referenced above (*see, e.g.*, 47 C.F.R. § 1.7), and (b) be addressed to the Commission Secretary. If a party seeks to file both a public version and a confidential version of a submission, it must file the public (redacted) version on ECFS and file the confidential (unredacted) version in hard copy form with the Office of the Commission Secretary. *See* 47 C.F.R. § 1.731. The parties shall serve on one another all filings via e-mail, together with a proof of all such service. *See* 47 C.F.R. § 1.735(f). In addition, the parties shall send to the Commission staff identified below email courtesy copies of all filings (both public versions and confidential versions) in a format that permits full text searching. *See* 47 U.S.C. § 154(i); 47 C.F.R. § 1.735(e).

The parties should note that this proceeding is restricted for *ex parte* purposes pursuant to 47 C.F.R. Part 1, Subpart H. Further, the parties shall retain all records that may be relevant to the complaint, including electronic records, until the Commission's decision in this proceeding is final and no longer subject to judicial review. *See* 47 U.S.C. §§ 154(i), 208(a); 47 C.F.R. § 42.7.

Commission staff assigned to this matter are: Rosemary McEnery, at (202) 418-7336 and rosemary.mcenery@fcc.gov, and Michael Engel, at (202) 418-1516 and michael.engel@fcc.gov.

Accelerated Docket Request. On May 2, 2018, Curne requested that the Commission initiate its Accelerated Docket process to resolve the instant dispute.³ On May 22, 2018, Commission staff

² Except in rare circumstances, *motions to dismiss should not be filed*. *Formal Complaints Recon Order*, 16 FCC Rcd at 5696 ("We find this practice of filing a separate motion to dismiss to be unnecessary, in virtually all cases...[T]he Commission's rules are designed so that a defendant's answer is a comprehensive pleading containing complete factual and legal analysis, including a thorough explanation of every ground for dismissing or denying the complaint...[W]e remind defendants that the grounds for a motion to dismiss ordinarily should be raised in the answer alone rather than in a separate pleading.").

conducted a conference call with Curne and counsel for Verizon Wireless, during which the factual and legal issues were discussed and the possibilities for settlement were explored. Subsequent to the May 22, 2018 conference call, Curne indicated via email that it would be amending its complaint.⁴ After reviewing the record in light of 47 C.F.R. § 1.730(e), Commission staff has determined that Curne's claims are not appropriate for inclusion on the Accelerated Docket. As discussed with the parties previously, this determination has no bearing on the merits of Curne's formal complaint against Verizon Wireless.

This letter ruling is issued pursuant to sections 4(i), 4(j), and 208 of the Act, 47 U.S.C. §§ 154(i), 154(j), 208, sections 1.3 and 1.720-1.736 of the Commission's rules, 47 C.F.R. §§ 1.3, 1.720-1.736, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in blue ink, appearing to read "ME", is positioned above the name Michael Engel.

Michael Engel
Special Counsel
Market Disputes Resolution Division

³ Email from Jarrell D. Curne and Paperkidd Productions & Publishing to Christopher Killion and Rosemary McEnery, FCC, Subject: Paperkidd v. Verizon (dated May 2, 2018, 3:39 PM).

⁴ Email from Jarrell D. Curne and Paperkidd Productions & Publishing to Michael Engel, FCC, and David Haga, Verizon, Subject: United States Payment – File No. EB-18-MD-003 (dated May 23, 2018, 7:18 PM).